

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	Chapter 11
85 FLATBUSH RHO MEZZ LLC, et al.,	Case No. 20-23280-SHL
Debtors.	Jointly Administered

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**ORDER STAYING THE EFFECTIVE DATE OF TH HOLDCO'S CONFIRMED  
PLAN AND THE CLOSING ON TH HOLDCO'S CREDIT BID PENDING APPEAL**

Upon reading and filing the motion [ECF No. 294] (the "Stay Motion") of 85 Flatbush Mezz LLC (the "Mezzanine Lender") seeking a stay pending appeal pursuant to Bankruptcy Rule 8007 from this Court's order confirming the Chapter 11 plan [ECF No. 211] (the "TH Holdco Plan") filed by TH Holdco LLC ("TH Holdco") and authorizing the sale of the property of the applicable Debtors in the above captioned case (collectively, the "Debtors") subject to the credit bid rights of TH Holdco [ECF No. 280] (the "Confirmation Order"); and upon the response to the Stay Motion filed by TH Holdco thereto [ECF Nos. 301 and 302]; and upon the reply of the Mezzanine Lender thereto [ECF No. 304]; and the Debtors having joined in the Stay Motion [ECF No. 303], and the Stay Motion having come on for a hearing before the undersigned on August 3, 2022 (the "Hearing") and after hearing the arguments of all counsel present; and based upon the record compiled at the Hearing; and due deliberation having been had; it is hereby

ORDERED, that (i) closing on TH Holdco's credit bid under the TH Holdco Plan relating to the Property (as defined in the TH Holdco Plan); and (ii) the Effective Date of the TH Holdco Plan, be, and the same are, hereby stayed pending appeal pursuant to Bankruptcy Rule 8007 for a period of two months ending on October 3, 2022 for all of the reasons set forth on the record of the Hearing, which is incorporated herein by reference; and it is further

ORDERED, that TH Holdco may move this Court to shorten the stay should the District Court rule in TH Holdco's favor prior to the expiration of the stay:

ORDERED, that as a condition of the stay, the Mezzanine Lender shall file the original of attached supersedeas appeal bond by ECF in the sum of \$5 million in the form attached hereto as Exhibit "A" issued by Atlantic Specialty Insurance Company in favor of TH Holdco (the "Bond").

Dated: White Plains, New York  
August 11, 2022

/s/ Sean H. Lane  
United States Bankruptcy Judge

**ATLANTIC SPECIALTY INSURANCE COMPANY**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE

BOND NO. 800131886

**UNDERTAKING ON APPEAL**

Chapter 11

85 FLATBUSH RHO MEZZ LLC, et al.,

Debtors,

(Jointly Administered)  
Case No. 20-23280 (SHL)

WHEREAS, 85 Flatbush Mezz LLC, Appellant, has filed and is prosecuting an appeal to the United States District Court Southern District Of New York from the Order (as hereinafter defined) filed the 6th day of July, 2022

WHEREAS, the Appellant, 85 Flatbush Mezz LLC, moved this Court for entry of an order granting a stay pending appeal of the Findings of Fact, Conclusions of Law, and Order Confirming TH Holdco LLC's Second Amended Chapter 11 Plan, as Modified by This Order (Dkt. No. 280) (the "Order") to the United States District Court for the Southern District of New York (the "District Court").

WHEREAS, as more fully set forth on the record of Hon. Sean H. Lane on August 3rd, 2022, the Appellant, 85 Flatbush Mezz LLC, is required to post an Undertaking pursuant to an Order about to be signed, as a condition of the Stay pending Appeal.

Now, therefore, **Atlantic Specialty Insurance Company**, a New York corporation, duly authorized to transact business in New York with a principal place of business for the State of New York at One State Street Plaza, 31st Floor, New York, NY 10004, as *Surety*, pursuant to said Order, does hereby undertake that the Appellant, 85 Flatbush Mezz LLC, will pay to TH Holdco LLC, such damages and costs not exceeding the sum of FIVE MILLION AND 00/100 ( \$5,000,000.00 ) DOLLARS as they may sustain by reason of the Stay, if the Court shall finally decide that the Appellant, 85 Flatbush Mezz LLC was not entitled thereto; such damages and costs to be ascertained by a reference, or otherwise as the Court shall direct.

Dated: August 8th, 2022

**ATLANTIC SPECIALTY INSURANCE COMPANY**

New York, New York

By: 

**NEIL P. PEDERSEN**  
ATTORNEY-IN-FACT

UNIFORM FORM CERTIFICATE OF ACKNOWLEDGEMENT

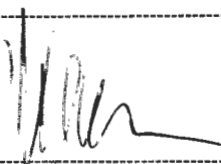
STATE OF NEW YORK  
COUNTY OF NEW YORK

SS:

On this 8th day of August in the year 2022, before me, a Notary Public in and for said County, personally appeared **NEIL P. PEDERSEN**, personally known to me, who being by me duly sworn, did say that he is the aforesaid Attorney-in-Fact of the **ATLANTIC SPECIALTY INSURANCE COMPANY** of New York, New York, a corporation duly organized and existing under the laws of the State of New York, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the said instrument was signed, sealed and executed in behalf of said corporation by authority of its Board of Directors, and further acknowledge that the said instrument and the execution thereof to be voluntary act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal the day and year last above written.

William J. Pedersen  
Notary Public, State of New York  
No. 01-PE4997302  
Qualified in New York County  
Commission Expires June 1, 2026



NOTARY PUBLIC



## Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: **William J. Pedersen, Neil P. Pedersen**, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: **sixty million dollars (\$60,000,000)** and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:


Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this twenty-ninth day of April, 2019.

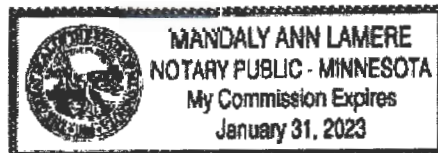
STATE OF MINNESOTA  
HENNEPIN COUNTY

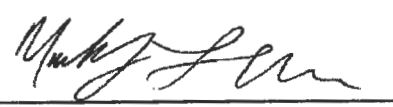


By

  
Paul J. Brehm, Senior Vice President

On this twenty-ninth day of April, 2019, before me personally came Paul J. Brehm, Senior Vice President of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, that he is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.



  
Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated 8 day of August, 2022.



This Power of Attorney expires  
January 31, 2023

  
Christopher V. Jerry, Secretary



specialty  
solutions

**Atlantic Specialty Insurance Company**

Period Ended 12/31/2021

Dollars displayed in thousands

**Admitted Assets**

**Investments:**

Bonds	\$ 1,827,267
Preferred Stocks	-
Common Stocks	907,728
Mortgage Loans	-
Real Estate	-
Contract Loans	-
Derivatives	-
Cash, Cash Equivalents & Short Term Investments	174,241
Other Investments	20,131
<b>Total Cash &amp; Investments</b>	<b>2,929,367</b>

Premiums and Considerations Due	288,964
Reinsurance Recoverable	24,105
Receivable from Parent, Subsidiary or Affiliates	56,353
All Other Admitted Assets	59,690

**Total Admitted Assets** **3,358,479**

**Liabilities and Surplus**

**Liabilities**

Loss Reserves	\$ 1,012,842
Loss Adjustment Expense Reserves	307,403
<b>Total Loss &amp; LAE Reserves</b>	<b>1,320,246</b>

Unearned Premium Reserve	655,993
Total Reinsurance Liabilities	24,180
Commissions, Other Expenses, and Taxes due	63,766
Derivatives	-
Payable to Parent, Subs or Affiliates	-
All Other Liabilities	442,340

**Total Liabilities** **2,506,525**

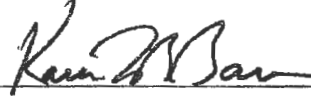
**Capital and Surplus**

Common Capital Stock	9,001
Preferred Capital Stock	-
Surplus Notes	-
Unassigned Surplus	185,606
Other Including Gross Contributed	677,347
<b>Capital &amp; Surplus</b>	<b>851,954</b>

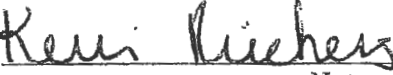
**Total Liabilities and C&S** **3,358,479**

State of Minnesota  
County of Hennepin

I, Kara Barrow, Secretary of Atlantic Specialty Insurance Company do hereby certify that the foregoing statement is a correct exhibit of the assets and liabilities of the said Company, on the 31<sup>st</sup> day of December, 2021, according to the best of my information, knowledge and belief.

  
Secretary

Subscribed and sworn to, before me, a Notary Public of the State of Minnesota on this 14<sup>th</sup> day of March, 2022.

  
Notary Public



My Commission Expires January 31, 2025